



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 7724**
Brian A. JOHNS et al. : Attorney Docket No. 2008_1236 (NEW)
Serial No. 10/597,902 : Group Art Unit 1625
Filed August 11, 2006 : Examiner David K. O'Dell
2-OXONAPHTHYRIDINE-3-CARBOXAMIDES Mail Stop: RCE
HIV INTEGRASE INHIBITORS (AS AMENDED)

PRELIMINARY REMARKS AND REQUEST FOR PERSONAL INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Advisory Action dated April 27, 2009 and is filed concurrently with an RCE.

Applicants acknowledge with thanks the Examiner's indication that the provisional rejection of the claims on the ground of obviousness-type double patenting as being unpatentable over claims of co-pending application Serial No. 11/478,218 is overcome.

The Examiner has indicated that the provisional rejection of the claims on the ground of obviousness-type double patenting as being unpatentable over claims of co-pending application Serial No. 11/997,786 might be withdrawn upon overcoming the rejection of the claims as being unpatentable over claims of co-pending application Serial No. 10/524,281, now issued as USP 7,358,249.

Applicants are not able to overcome this rejection with a terminal disclaimer because the Assignee of the '249 patent (Shionogi & Co., Ltd.) is different from the Assignees of the instant application (Shionogi & Co., Ltd. and SmithKline Beecham Corporation).

Accordingly, Applicants have carefully studied the grounds of rejection set forth in the Office Action dated December 19, 2008. The ground of rejection is respectfully traversed for the following reasons.

The Examiner lists in the Action a number of compounds which are alleged to anticipate or render obvious the claimed compounds. The Examiner appears to compare the prior art compounds to claim 1 of the pending application. However claim 1 is cancelled and claim 5 is now the main independent claim.

The compounds listed on page 4 of the Action do not have an F on the Ph-CH₂- group according to the compounds of claim 5.

While the compounds on page 5 of the Action do have an F substituted phenyl group, the R34 group examples are excluded by the proviso language of claim 5.

The compounds of page 6 of the Action appear to be no more relevant to the compounds of claim 5 than the foregoing compounds. That is, the first listed compound lacks the F-Ph-CH₂ group of the claimed compounds. The second listed compound has a different ring structure including O, not N.

The compound at the bottom of page 7 lacks an N in the right side ring to which R28 is attached.

In the Advisory Action dated April 27, 2009, the Examiner mentioned that "applicants arguments are insufficient to traverse the rejection". However there is provided no specific details as to why the Applicants arguments are not convincing.

Applicants respectfully request a personal interview with the Examiner prior to issuing a first Office Action on the merits of this RCE application in order discuss the rejection over the '249 patent.

Applicants also respectfully request reconsideration and/or clarification of the Examiner's position.

In view of the foregoing, it is believed that each ground of rejection set forth in the Official Action has been overcome, and that the application is now in condition for allowance. Accordingly, such allowance is solicited.

Respectfully submitted,

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